MONTANA LEGISLATIVE HISTORY

Chapter 264 19 95

Bill H 385 S _____ Original bill & history ____C

H. Committee on Human Services & Aging			S. Committee on Public Health Welfare & Safety		
Hearing Date(s)	Feb 06	✓C	Hearing Date(s)	Mar 08	✓C
	Feb 10	✓C			C
	Feb 15	✓C			C
		C			C
Date Out	Feb 16	✓C		Mar 09	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 385 INTRODUCED BY R. JOHNSON

GENERALLY REVISE CHILD SUPPORT LAWS AND METHOD BY WHICH DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES COLLECTS AND ENFORCES SUPPORT

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

1/30	INTRODUCED		
1/30	FIRST READING		
1/30	REFERRED TO HUMAN SERVICES & AGING		
2/06	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	96	1
2/21	3RD READING PASSED	95	1
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/08	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	50	0
3/17	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE		
3/20	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 264		
	EFFECTIVE DATE: 03/28/95		

HB 386 INTRODUCED BY ROSE

REVISE THE MONTANA LIVESTOCK MARKETING ACT

1/30	INTRODUCED		
1/30	FIRST READING		
1/30	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
1/31	FISCAL NOTE REQUESTED		
2/06	FISCAL NOTE RECEIVED		
2/06	FISCAL NOTE PRINTED		
2/07	HEARING		
2/09	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	97	2
2/13	3RD READING PASSED	96	3
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
3/01	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED	40	3
3/11	3RD READING CONCURRED	39	0
	RETURNED TO HOUSE		
3/13	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/17	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 160		
	EFFECTIVE DATE: 10/01/95		

Mr. Anderson explained that a number of the patients are quite social and engage in activities. There would probably not be that many younger people.

REP. LOREN SOFT asked what the age range of the patients they expect from the state hospital and what are the cost comparisons between the facilities.

Mr. Anderson replied that most of them were over 55 and eight are younger. The overall cost per day at the state hospital is around $270 and $80 per day at the center.

Closing by Sponsor:

SEN. JOHN HERTEL emphasized that the type of mental patients would be better served at the Center for the Aged and it would be more cost efficient.

{Tape: 1; Side: A; Approx. Counter: 760; Comments: NA.}

HEARING ON HB 385

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, Billings, stated that through the bill an attempt would be made to clarify some current problems in the law. There is also an expansion to be more effective and efficient in the collection of child support payments.

Proponents' Testimony:

Mary Ann Wellbank, Administrator of the Child Support Enforcement Division (SRS-CSED), said that HB 385 was developed to assist in the state welfare reform efforts. Their department is required to contribute an additional $3.6 million in Aid to Families with Dependent Children (AFDC) collections, which represents a 50% increase in AFDC collections over the next two years. Their goal is to make themselves more efficient by making their operations tighter and by making the law tighter. Division activities are highly driven by law and statutory changes are necessary Paternity needs to be established sooner for children who are born out of wedlock. HB 385 enhances the department's authority to gather information to establish paternity sooner and clarifies the state's interest in child support for AFDC cases, the state's role in working child support cases, expedites child support enforcement and safeguards all confidential information obtained in these proceedings.

{Tape: 1; Side: A-920 through B-390; Approx. Counter: 400; Comments: Ms. Wellbank walked the committee through the bill and the proposed amendment and highlighted the eight points of interest.}

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN GRIMES stated that the sponsor mentioned that there were five clarifications and three expansions to the bill. He asked for further explanation of which were expansions and which were clarifications.

Ms. Wellbank explained that Section 1 on page 1 clarified that the state does not side with either party, Section 5 on page 2 is clarifying that their department needs to receive notice, Section 6 on page 3 clarifies that the assignment exists and expands the penalty for keeping the money, Section 2 on page 5 expands to allow the department to obtain information from both parties involved in the case, Section 3 on page 6 clarifies confidentiality of paternity proceedings, and Section 5 on page 7 expands on how far back child support is owed within the statutes of limitations period.

(Tape: 1; Side: B; Approx. Counter: 630; Comments: NA.)

REP. BRUCE SIMON asked what an exceptional case would entail where a hearings officer would want to expose confidential information.

Amy Pfeiffer, Attorney for CSED, told the committee that she could not think of an exceptional circumstance and that the language was taken from the Uniform Parentage Act. They wanted their language to be consistent with the court language.

REP. SIMON questioned why two different terminologies were being used in different parts of the bill to describe the same information regarding wages and earnings.

Ms. Wellbank explained that in Section 2 the terminology applies to other state departments and public records and in section eleven they applied to payors, banks or employers and includes commission.

REP. SIMON inquired what would be not be considered other income under the general terminology of wages.

Ms. Wellbank stated that the purpose of that was to clarify exactly what types of income they were looking for.

REP. SIMON asked why the language was not consistent as the same information could be given in both sections.

Ms. Wellbank answered that they would have no objection to making the information consistent.

REP. BONNIE MARTINEZ wanted to know how the new method of collecting child support would be an improvement.

Ms. Wellbank explained that they were working toward tightening up existing procedures and to make sure the division operates exclusively with statutory authority. The investigative subpoena powers will allow them to become more efficient.

{Tape: 2; Side: A; Approx. Counter: 00; Comments: NA.}

REP. MARTINEZ asked if the obligee was the client on AFDC, why would they want to look at what she has, and how much success had the department had in the past with child support collection.

Ms. Wellbank replied that there are many non-AFDC people whose assets and income cannot be assumed. The federal regulations require that all cases be treated equally. The purpose of their division is to help people get a regular child support income. Compared to other states Montana is more successful, but compared to the total AFDC there are millions of dollars in Montana and nationwide that are not being collected.

REP. JOHN BOHLINGER reiterated that $3.6 million was needed in AFDC collections, and last year $25 million was collected with $17 million of that going to non-AFDC people.

REP. LIZ SMITH asked for a sample of who comprised the private collections.

Ms. Wellbank said that the division does not currently contract with any private collection agencies.

REP. L. SMITH asked about the section that stated that if a collection agency was used and full restitution was not made, then the agency would be liable to double the amount collected.

Ms. Wellbank explained that more collection agencies are getting involved and if those agencies collect money that belongs to the state, then their department needs a way to get that money back.

REP. L. SMITH inquired as to how someone who was receiving minimum wage and owed 16 years back child support could pay their debt.

Ms. Wellbank stated that if a debt accumulates, that debt is always due and owing. When their agency collects through income withholding the limit is 50% of the individual's wages. They like to seize other assets or income tax refunds that are available to pay that debt.

REP. L. SMITH asked what percentage of support cases that are owing a significant amount.

Ms. Wellbank replied that 10%-25% of children on AFDC had parents that were earning an income of over $50,000 a year.

REP. SUSAN SMITH mentioned that it would cost about $200 to enroll in a private agency to locate the outstanding debt of the non-AFDC obligee.

Ms. Wellbank stated that she was aware of companies that charge from $100-$200 just to take the application, and then they take 30% of what is collected.

REP. S. SMITH asked about the $3.6 million that they need to collect and if that went for AFDC.

Ms. Wellbank replied that the money was the amount that the CSED needs to contribute to the overall cost neutrality for the governors' welfare reform program over eight years. All money that is collected for non-AFDC people is passed through to them and the money the CSED keeps is the state portion of the money collected from AFDC recipients. It would be better to use the CSED staff to collect the AFDC arrears. They are currently evaluating privatization opportunities.

{Tape: 2; Side: A; Approx. Counter: 450; Comments: NA.}

REP. BRAD MOLNAR asked about the assets that the CSED would be entitled to.

Ms. Wellbank explained that the obligor may have a limited number of assets and the CSED would be the first in line to receive the money available. When there are two parties competing for collection the state would be paid first and then the person with the child would receive payment.

REP. MOLNAR questioned why the obligee would need to disclose information regarding former employers and unions.

Ms. Wellbank stated that the reason for that is to verify current earnings against previous employment and to allow the CSED to gather information to calculate a support order for the obligee.

REP. MOLNAR stated that if the obligor's income determines the amount of support he is capable of making, the financial capabilities of the obligee shouldn't make any difference. **Ms. Wellbank** reiterated that the CSED looks at both parties to make it more equitable.

REP. MOLNAR clarified some of the points of the bill regarding gathering information and confidentiality that had been discussed earlier.

REP. L. SMITH asked for clarification regarding what the tribunal was and did. **Ms. Wellbank** explained that tribunal was a adjudicated body. In the division it is the administrative forum and in the court it would be the judge.

{Tape: 2; Side: B; Approx. Counter: 00 Comments: NA.}

REP. L. SMITH stated that no matter how the parties were trying to work out the problem within themselves the rights of the department were not reduced. **Ms. Wellbank** said that wasn't a case where the AFDC recipients were referred to the department, so the state has a financial interest.

REP. L. SMITH asked if there were other states that were adopting similar types of statutes. **Ms. Wellbank** said she wasn't sure which states were doing this, but that any time child support is assigned to the state, the state needs to act to protects its rights.

REP. SIMON asked **Ms. Pfeiffer** what special circumstances might arise to breach confidentiality in the opinion of the hearings officer. She described the scenario in which a mother alleges that a certain man is the father and he tells the department that he did have intercourse with her at that time and may be the father. He might sign an acknowledgment of paternity and they would enter an order saying that he is the father. A few years later, another man comes forward and thinks he may be the father. This man was not part of the original action and he can't get any information. That man may ask the court to give him an order opening those records.

Closing by Sponsor:

REP. ROYAL JOHNSON stated that he thought the purpose of the bill was to help the department do the job that the legislature asked them to do. If a person is paying their support that is fine but if they are not then the law is needed with as few barriers as possible.

{Tape: 2; Side: B; Approx. Counter: 225; Comments: n/a.}

EXECUTIVE ACTION ON HB 89

Motion/Vote: **REP. BRAD MOLNAR MOVED TO TABLE HB 89. The motion carried unanimously.**

EXECUTIVE ACTION ON HB 318

Motion: **REP. JOHN BOHLINGER MOVED THAT HB 318 DO PASS. HE THEN MOVED THAT THE AMENDMENTS TO HB 318 DO PASS.**

Discussion:

REP. BOHLINGER said that he and **REP. BRUCE SIMON** agreed that the amendments were necessary to address the concerns of the institution that they may apply for more that one permit.

Vote: **Voice vote was taken. The motion carried unanimously.**

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL DATE 2-6-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority		✓	
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey		✓	
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓		
Rep. Susan Smith	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging DATE 2-6-95

BILL NO. HB 385 SPONSOR(S)
SB 120

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dan Anderson	MT Division	SB120	
Kelly Moorse	Board of Visitors	SB120	
Barbara Larsen 25650 Vanderburg Ln Arlee MT 59821		SB120	
M.A. Wellbank	SRS-CSED	HB385	
Roy B Kemp	DHES	HB 301	
Sen John Hertel		SB120	
Andrea Larson	Montana Advocacy Prog.	SB120	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993
wp:vissbcom.man
CS-14

Ms. Good said that the intent of the amendment is that only the waiver would be applied. The waiver does not impact purchasing insurance for the working poor only the Medicaid recipients.

Mr. Niss said that it wasn't just the use of MSAs. It is the use of MSAs in conjunction with the purchase of insurance for Medicaid recipients.

CHAIRMAN GRIMES asked if a waiver was needed to do that. **Ms. Good** replied that the study is the impetus for SRS to begin applying for the waiver when the results of the study come back reflecting the purchase of MSAs for purchasing health benefits is cost effective.

REP. BRUCE SIMON reiterated what the bill and amendment would do.

REP. CAROLYN SQUIRES asked how much the waiver would cost. **Ms. Good** stated that it is not known how much the waiver will cost and it all depends on who is asked.

CHAIRMAN GRIMES asked if the plan is only marginally beneficial. **Ms. Good** explained that their organization did not put a specific amount on the savings because there are many variables that will need to be decided. They are confident that multi-millions will be saved.

REP. SIMON said that it would be triggered to the budget office for making that decision and if the savings were only marginal they would not go for it and if it is substantial they would.

Vote: **Voice vote was taken. The motion carried unanimously.**

Motion/Vote: **REP. BRUCE SIMON MOVED THAT HB 484 DO PASS AS AMENDED. The motion carried unanimously.**

{Tape: 5; Side: A; Approx. Counter: 250; Comments: NA.}

EXECUTIVE ACTION ON HB 385

Motion: **REP. BRUCE SIMON MOVED THAT HB 385 DO PASS.**

Motion: **REP. BRUCE SIMON MOVED TO AMEND HB 385.**

Discussion:

David Niss, Legislative Council, explained that the amendment concerned the applicable statute of limitations for bringing the enforcement action. **EXHIBIT 16**

CHAIRMAN GRIMES inquired if this was the same language that was in a previous bill and was it coordination language with the other bill.

Mary Ann Wellbank, Administrator of the Child Support Enforcement Division (CSED), replied that it was not the same language but it does coordinate it with the same effects of the Uniform Interstate Family Support Act. She gave a brief synopsis of what the bill would do.

Vote: **Voice vote was taken. The motion carried unanimously.**

Motion: **REP. CHRIS AHNER MOVED THAT HB 385 DO PASS AS AMENDED.**

{Tape: 5; Side: A; Approx. Counter: 530; Comments: NA.}

Discussion:

REP. BRAD MOLNAR shared that he did not like the bill because neither the woman nor the agency receives the back child support until the state gets their cut and they are getting money without doing anything for it.

REP. CHRIS AHNER mentioned that the state had been supporting an individual in Montana but not someone from out of state.

REP. SIMON stated that it was a mechanism for the state to get back money that has been invested through public assistance for someone because they were not receiving their child support check.

REP. CAROLYN SQUIRES asked if the person on welfare can go to the CSED and negotiate a price for their child support. She asked if they would be made to pay back the whole welfare grant.

{Tape: 5; Side: A; Approx. Counter: 730; Comments: NA.}

Ms. Wellbank gave a brief overview of the CSED procedure. In regard to paying child support, she said that the state can negotiate for a lump sum payment, otherwise they can pay a monthly low hardship payment.

CHAIRMAN GRIMES asked if the collection agency has a right to a percentage of the funds that were obligated to the state.

Ms. Wellbank stated that they did not have the right to the money owed to the state.

CHAIRMAN GRIMES asked about the double damages in the statute. **Ms. Wellbank** replied that the CSED felt it was necessary to clarify the rights of the state with respect to the debt because many people are turning to collection agencies.

REP. SIMON asked what the potential for savings for the state over the next biennium would be.

{Tape: 5; Side: B; Approx. Counter: 00; Comments: NA.}

Ms. Wellbank replied that she could not put it into a number but it just tightens the law.

REP. MOLNAR said that the department was inefficient in the collection of funds and they take the proceeds of the collection agency's work and not let them keep any money.

REP. BILL CAREY thought that in the real world the collection agency would not do the work unless they thought they could get something back from it.

REP. MOLNAR stated that the person still owes the state and the state should hire the collection agency or go after the money themselves.

REP. SUSAN SMITH agreed with **REP. MOLNAR** that the collection agency should get what was owed them before the state got their share and asked if there was an amendment from **REP. JOHN COBB** for the bill.

Ms. Wellbank explained that **REP. COBB** was interested in giving the CSED the authority to sell the arrearages. He did not get it to the point of putting it into an amendment.

REP. DICK GREEN said that welfare has already paid out public assistance and the child support is owed to the state. The collection agency should be paid their fee and let the balance go to the state.

REP. LOREN SOFT clarified what the intention of the bill was.

Ms. Wellbank explained that the collection agency does not get the fee and the obligee has no right to the money as it is assigned to the state.

REP. LIZ SMITH inquired what the incentive was for the collection agency.

REP. CAREY said the collection agency would not work if there was not an incentive.

REP. ELLEN BERGMAN asked if the collection agency got paid for their work and the state should be doing the contracting. **Ms. Wellbank** replied that the money that the collection agency collects is separate from the money that is owed to them for doing the work.

Motion: **REP. SUSAN SMITH MOVED TO POSTPONE ACTION UNTIL 2/15/95. The motion carried unanimously.**

{Tape: 5; Side: B; Approx. Counter: 230; Comments: NA.}

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL DATE 2-13-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority			✓
Rep. Carolyn Squires, Vice Chair, Minority	✓		✓
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓		
Rep. Susan Smith	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar			✓

EXHIBIT
DATE 2/13/95
HB 385

Amendments to House Bill No. 385
First Reading Copy

Requested by Rep. Royal Johnson
For the Committee on Human Services and Aging

Prepared by David S. Niss
February 13, 1995

1. Title, line 7.
Following: "SECTIONS"
Insert: "27-2-201,"

2. Page 11.
Following: line 17
Insert: "**Section 7.** Section 27-2-201, MCA, is amended to read:

"**27-2-201. Actions upon judgments.** (1) Except as provided in ~~subsection~~ subsections (3) and (4), the period prescribed for the commencement of an action upon a judgment or decree of any court of record of the United States or of any state within the United States is within 10 years.

(2) The period prescribed for the commencement of an action upon a judgment or decree rendered in a court not of record is within 5 years. The cause of action is considered, in that case, to have accrued when final judgment was rendered.

(3) The period prescribed for the commencement of an action to collect past-due child support that has accrued after October 1, 1993, under an order entered by a court of record or administrative authority is within 10 years of the termination of support obligation.

(4) The period prescribed for the commencement of an action to collect past-due child support that has accrued under a support order issued in another state, in a foreign country, or in a tribal court is as provided in subsection (3) or as provided in the law of the issuing jurisdiction, whichever period is longer."

{*Internal References to 27-2-201: None.*}

Renumber: subsequent sections

Closing by the Sponsor:

REP. CARLEY TUSS closed on the bill. She pointed out the tremendous cost savings this would be by allowing people to have respiratory care in the least restrictive setting.

{Tape: 6; Side: A; Approx. Counter: 000; Comments: n/a.}

EXECUTIVE ACTION ON HB 555

REP. SOFT said the bill had not resolved the issues by those concerned.

Motion/Vote: **REP. SOFT MOVED TO TABLE HB 555. The question was called. The motion to table HB 555 passed unanimously.**

EXECUTIVE ACTION ON HB 153

REP. LIZ SMITH said the bill should be tabled. It was to be a follow-up to HB 555 and had to do with disability benefits for midwifery services. The midwifery lobbyist requested the bill be held up. There was concern for the credentialing for midwifery services.

Motion/Vote: **REP. SMITH MOVED TO TABLE HB 153. The motion passed unanimously.**

EXECUTIVE ACTION ON HB 492

Motion/Vote: **CHAIRMAN GRIMES MOVED TO TABLE HB 492. The motion passed unanimously.**

EXECUTIVE ACTION ON HB 385

Motion: **REP. SIMON MOVED HB 385 DO PASS.**

Discussion:

REP. S. SMITH presented an amendment from the Department. She explained this would allow the Health Services to sell their accounts receivable so a private agency could collect the arrears. This would provide a vehicle to do that. She said that **Maryann Wellbank** could explain.

Ms. Wellbank, Administrator of the Child Support Enforcement Division, said this would allow the state to sell arrearages so a collection agency could take over. These would only be AFDC arrearages owed to the state that are currently uncollectible. The ones they are collecting now they would proceed to collect.

Motion/Vote: REP. SMITH MOVED THE AMENDMENT. The motion carried 13-3 with REPS. GRIMES, SQUIRES and HAGENER voting no.

Motion: CHAIRMAN GRIMES MOVED HB 385 DO PASS AS AMENDED. The motion carried 15-1 with REP. SQUIRES voting no.

{Comments: The standing committee report for this bill recorded the vote as 13-3; however, that was for the amendment, not the bill.}

EXECUTIVE ACTION ON HB 468

Motion: REP. SIMON MOVED HB 468 DO PASS.

Discussion:

REP. SIMON presented an amendment. He explained this would expand some of the options that the council might consider, including the possibility of utilizing some existing facilities within the state.

Motion/Vote: REP. SIMON MOVED THE AMENDMENTS. The question was called. The motion to adopt the amendments carried with one no vote by REP. SMITH.

Motion:

REP. BOHLINGER MOVED THAT HB 468 DO PASS AS AMENDED.

Discussion:

REP. L. SMITH asked how much this would cost. REP. SIMON said he had the fiscal note but did not sign it. It the department wanted to kill the bill then they should have testified against the bill. The fiscal note talks in terms of operating expenses for the mental health planning and advisory council at a very high price. The fiscal note assumes the facility will not be built in the Deer Lodge Valley, which may not be true.

REP. LIZ SMITH said the plan addresses the mental health field, but is a repetition and a significant cost. The new structure would cost $11 million that would serve 110 people. Renovation to surrounding buildings brings that up to $18 million. If that facility were to be moved somewhere else, it would be about $30 million. REP. SUSAN SMITH asked if this were the only vehicle that would stop the $19 million dollar building in Warm Springs. REP. L. SMITH said it was not the only vehicle that would stop that, because the Long Range Planning Appropriations Subcommittee had to approve it.

REP. MOLNAR pointed out the high costs.

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL DATE 2-15-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓		
Rep. Susan Smith Late	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 2-15-95 BILL NO. 385 NUMBER _____

MOTION: _____

amend

NAME	AYE	NO
Rep. Duane Grimes, Chairman		✓
Rep. John Bohlinger, Vice Chairman, Majority		
Rep. Carolyn Squires, Vice Chairman, Minority		✓
Rep. Chris Ahner		
Rep. Ellen Bergman		
Rep. Bill Carey		
Rep. Dick Green		
Rep. Toni Hagener		✓
Rep. Deb Kottel		
Rep. Bonnie Martinez		
Rep. Brad Molnar		
Rep. Bruce Simon		
Rep. Liz Smith		
Rep. Susan Smith		
Rep. Loren Soft		
Rep. Ken Wennemar		

HOUSE STANDING COMMITTEE REPORT

February 17, 1995

Mr. Speaker: We, the committee on **Human Services and Aging** report that **House Bill 385** (first reading copy -- white) **do pass as amended.**

Signed: _____
Duane Grimes, Chair

And, that such amendments read:

1. Title, line 7.
Following: "ENFORCES SUPPORT"
Insert: "; AUTHORIZING SALE OF SUPPORT DEBTS;"
Following: "SECTIONS"
Insert: "27-2-201,"
Following: "40-5-226"
Insert: ", 40-5-255"

2. Page 10.
Following: line 28
Insert: "**Section 6.** Section 40-5-255, MCA, is amended to read:

"**40-5-255. Charging off child support debts as uncollectible** -- sale of support debts. (1) Any support debt due the department from an obligor, which debt the department determines uncollectible, may be transferred from accounts receivable to a suspense account and cease to be accounted as an asset. If a warrant for distraint has been filed and the support debt has subsequently been charged off as uncollectible, the department shall issue a release of lien.

(2) At any time after 10 years from the date of termination of the support obligation, the department may charge off as uncollectible any support debt upon which the department finds there is no available, practical, or lawful means by which the support debt may be collected. A proceeding or action under the provisions of this part may not be begun after expiration of the 10-year period to institute collection of a support debt. This

Committee Vote:
Yes 13, No 3.

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part may not be construed to render invalid or nonactionable a warrant for distraint issued by the department prior to the expiration of the 10-year period or an assignment of earnings executed prior to the expiration of the 10-year period.

(3) The department may discount and sell to a private collection agency, credit bureau or other private entity any interest that the state and the department may have in the unpaid balance of the support debt created by 40-5-221 and 53-4-248 or assigned to the department under 53-2-613.

(a) The sale shall be by sealed bid to the highest bidder provided that the highest bid is not less than 10 percent of the value of the support debt subject to the sale.

(b) The sale shall be subject to conditions and terms which the department may set out in a sales contract.

(c) The department shall publish notice of the sale in a newspaper having statewide circulation once a week for 4 successive weeks.

(d) Proceeds shall be paid into the state treasury to the credit of the child support enforcement division special revenue fund."

Renumber: subsequent sections

3. Page 11.
Following: line 17
Insert: "**Section 8.** Section 27-2-201, MCA, is amended to read:

"**27-2-201. Actions upon judgments.** (1) Except as provided in ~~subsection~~ subsections (3) and (4), the period prescribed for the commencement of an action upon a judgment or decree of any court of record of the United States or of any state within the United States is within 10 years.

(2) The period prescribed for the commencement of an action upon a judgment or decree rendered in a court not of record is within 5 years. The cause of action is considered, in that case, to have accrued when final judgment was rendered.

(3) The period prescribed for the commencement of an action to collect past-due child support that has accrued after October 1, 1993, under an order entered by a court of record or administrative authority is within 10 years of the termination of support obligation.

(4) The period prescribed for the commencement of an action to collect past-due child support that has accrued under a support order issued in another state, in a foreign country, or in a tribal court is as provided in subsection (3) or as provided in the law of the issuing jurisdiction, whichever period is longer."

Renumber: subsequent sections

this amendment is not included, these different facilities would be assessed the cost of the Medical-Legal Panel. She said since these facilities had not previously participated in the Medical-Legal Panel, this amendment is to preclude their being assessed the cost, unless, at a future date they choose to participate they would be assessed to participate.

Motion/Vote: **SENATOR ECK moved the Amendments to HB 301 DO PASS. The motion CARRIED UNANIMOUSLY.**

Motion: **SENATOR ECK moved HB 301 BE CONCURRED IN AS AMENDED.**

SENATOR ESTRADA asked for a refresher on HB 301 and for **SENATOR ECK** to explain what this bill does.

SENATOR ECK said it primarily relates to adult foster care homes, which are small homes that take care of from one to five elderly people who do not need nursing home care. This bill moves their licensing from DFS to the Department of Health and Environmental Sciences.

SENATOR ESTRADA asked about retirement homes.

SENATOR SPRAGUE referred to line 6 on the Fiscal Note. He said what's important is the 122 adult foster care homes, and the licensing. He had a question about some of these homes never having had to pay a license fee.

SENATOR MOHL said he has a problems with item #4 of the Fiscal Note, that no FTE's will be transferred, and recommended adding an amendment to reduce some FTE's.

SENATOR BURNETT said that would be handled by Finance and Claims.

SENATOR BENEDICT said this is a Finance and Claims area, and if this bill is referred to Finance and Claims, that is the place to take care of the FTE issue.

Vote: **The Be Concurred In motion for HB 301 AS AMENDED CARRIED with Senator Mohl voting NO.**

SENATOR BURNETT will carry HB 301.

HEARING ON HB 385

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, Billings, said, with this bill, the Department will collect a lot of money and not add any FTE's. He is carrying this bill on behalf of the Department of Social and Rehabilitation Services. HB 385 would authorize the Department to make a concerted effort to develop a means of collecting monies that are due the state for child support. With the welfare reform package, they think they could get about $3.6 million in AFDC

collections, and to stay cost neutral, there will be no additional FTE's. Some of the work will contracted out, so there will be someone, effectively and efficiently, going after this money, but most of it will be done by the Department itself. There has been some concern about this bill, but it passed the house by vote of 95 to 4.

The important parts of the bill are on page 3, line 5. They are going after people who are delinquent in child support payments because this is a real problem. Also with this bill, they will look at assets of both the person who owes the money and the recipient the money. If the recipient has certain assets, they are entitled to child support payments, but not to AFDC payments, and not entitled to the state payments plus the child support payments.

Proponents' Testimony:

Mary Ann Wellbank, Administrator, Child Support Enforcement Division, SRS, said this bill can be considered a part of the Department's welfare reform. They are charged with raising $3.5 million in new AFDC funds to reimburse AFDC over the next biennium and they are going to do this without additional FTE's. Because the goal of increasing collections is entirely dependent upon improving their efficiency as a division, HB 385 tightens some of the areas of the law. She said child support is a very legally driven administrative process because every single action they take, from establishing paternity to enforcing child support, goes through a administrative process, so they are continuously sending out legal forms and have legal proceedings. To begin collecting their cases sooner, they need to establish paternity sooner with collected case information, so they can establish a child support order and begin collecting. This process takes anywhere from a day to a couple of years, all depending on how fast they get the information. This bill enhances the Department's authority to gather information from sources, clarify the state's interest in child support for AFDC cases, clarify's the state's role in working child support cases, expedites child support enforcement, and carefully safeguards all confidential information obtained in proceedings. They believe this legislation, coupled with other Department initiatives, will help the welfare reform effort and this bill is effective on passage and approval to tie in with welfare reform.

She said the bill has a lot of different diverse parts, and she explained each.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR BENEDICT said he is uncomfortable with the parts of this bill containing language added by the House, regarding the sale or discount of the contract or uncollected debt. He said its being discounted up to 90% is excessive, when it could be taken

to a collection agency and have them take 40 or 50%, or whatever was negotiated.

Mary Ann Wellbank said the reason it's at 10% is that's just the bottom line. The only time this would be used is when all other possibilities have been exhausted and still couldn't collect, but someone is willing to buy it.

SENATOR BAER asked if it wouldn't be better to offer the debt for sale to the highest bidder, and all bids are subject to approval. This way, 10% is not being established in writing, which means there will be a lot of 10 1/2 and 11% bids. If this 10% were not established, it may be possible to recover more money.

Mary Ann Wellbank said the Department would have no objections to that.

SENATOR ECK asked which Committee dealt with this in the House.

Mary Ann Wellbank said the Health and Human Services on Aging.

SENATOR ECK said she had a similar bill before the Senate Judiciary Committee.

Mary Ann Wellbank said most of their bills end up in the Judiciary Committee.

Closing by Sponsor:

REP. JOHNSON said if there is a problem, they wouldn't mind having the bill back in the House for that kind of amendment.

HEARING ON HB 436

Opening Statement by Sponsor:

REP. DEB KOTTEL, HD 45, Great Falls, said HB 436 is a housekeeping bill to update the educational requirements for a Chemical Dependency Counselor to a Masters Degree, permit to change the number required for the examination for certification, permits the development of a level system for certification in terms of the hours for an internship and work experience, and allows the task force to identify specific criteria for Montana to accept out-of-state certificates for experienced Chemical Dependency Counselors.

Proponents' Testimony:

Darryl Bruno, Administrator, Alcohol and Drug abuse Division, Department of Corrections and Human Services, read his written testimony in support of HB 436. **EXHIBIT 3.**

SENATOR SPRAGUE said he's trying to clarify this seemingly modern-day language bill that is more complex than simplistic in terms of modernizing the language. He said Yellowstone County has a convoluted, complex system. They have a trade port and it has assumed some of the duties of the county in terms of obligatory bonds, and wondered if whether other assets can be obligated along with the mills.

REP. EWER said he is somewhat familiar with trade ports and they can pledge other assets. These facilities have more revenues at their disposal, and that is the main asset than the tax monies.

Closing by Sponsor:

REP. EWER said his intent was to convey that the current statute is out of date and need clarification. This is not a housekeeping bill, and there are some policy calls that aren't too much of a consequence to the taxpayer.

SENATOR SPRAGUE said he wants a Fiscal Note.

SENATOR BURNETT said the leadership has to ask for a Fiscal Note.

Susan Fox said she drafted the bill, and in that process can note whether a Fiscal Note is needed. The problem is, to whom would you send it to find out what affect will be. She suggested asking Dave Lewis for an opinion.

SENATOR SPRAGUE said he's not for it nor against it, but he is not clear on it.

SENATOR ECK said she thinks if **SENATOR SPRAGUE** wants to wait and talk to others who have used this process, it might be of help.

SENATOR BURNETT said they used this in Carbon County and he has no problems with it.

SENATOR ESTRADA said they have major problems in Yellowstone County, and she is concerned about it. She would like to wait to act on the bill until she has had a chance to research it.

EXECUTIVE ACTION ON HB 385

Motion/Vote: **SENATOR ESTRADA moved HB 385 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.**

SENATOR ESTRADA will carry HB 385.

SENATE STANDING COMMITTEE REPORT

March 9, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration HB 385 (third reading copy -- blue), respectfully report that HB 385 be concurred in.

Signed: Jim Burnett
Senator Jim Burnett, Chair

Amd. Coord.
Sec. of Senate

SEN. ESTRADA
Senator Carrying Bill

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